COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATION AND ENERGY

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Investigation by the Department on its own motion)

as to the propriety of the rates and charges set forth)

in the following tariffs: M.D.T.E Nos. 14 and 17,) D.T.E. 98-57, Phase I

filed with the Department on August 27, 1999, to)

become effective on September 27, 1999, by New)

England Telephone and Telegraph Company)

d/b/a Bell Atlantic - Massachusetts.)

_____)

VERIZON MASSACHUSETTS'

MOTION FOR PARTIAL RECONSIDERATION

Verizon Massachusetts ("Verizon MA") hereby requests that the Department reconsider in part its September 7, 2000, Order in this proceeding. In a separate but related motion, Verizon MA also request an extension of the judicial appeal period pending the Department's ruling on this Motion.

Verizon MA seeks reconsideration of one issue - Verizon MA's ability to apply a "stop clock" to the Department-approved 76 business day interval for physical collocation when a competitive local exchange carrier ("CLEC") delays the process by failing to deliver its equipment on a timely basis. Verizon MA's proposed tariff modification is reasonable in that it would enable Verizon MA to adjust the final provisioning date for physical collocation for each day of delay caused by the CLEC. This appropriately reflects the restrictions applicable to New York's 76 business day provisioning interval, as required by the Department in its March 24, Order ("Tariff No. 17 Order") and its September 7, 2000, Order in this proceeding. For the following reasons, Verizon MA's Motion satisfies the established standard for review and, its Motion should, accordingly, be granted.

I. standard of review

The Department's standard of review for reconsideration of its decisions are well-established. As demonstrated in this Motion, Verizon MA satisfies both

standards in this instance.

The Department has stated that a motion for reconsideration "should bring to light previously unknown or undisclosed facts that would have a significant impact upon the decision already rendered." Boston Edison Company, D.P.U. 90-270-A, at 2-3 (1991); Western Massachusetts Electric Company, D.P.U. 85-270-C, at 12-13 (1987). It should not attempt to reargue issues considered and decided in the main case. Commonwealth Electric Company, D.P.U. 92-3C-1A, at 3-6 (1995); Boston Edison Company, D.P.U. 90-270-A, at 3 (1991). Rather,

"[r]econsideration of previously decided issues is granted only when extraordinary circumstances dictate that the Department take a fresh look at the record for the express purpose of substantively modifying a decision made after review and deliberation." (id.)

Alternatively, a motion for reconsideration may be based on the argument that the Department's treatment of an issue was the result of mistake or inadvertence. Massachusetts Electric Company, D.P.U. 90-261-B, at 7 (1991); New England Telephone and Telegraph Company, D.P.U. 86-33-J, at 2 (1989); Boston Edison Company, D.P.U. 1350-A, at 5 (1983). It is also appropriate where parties have not been "given notice of the issues involved and accorded a reasonable opportunity to prepare and present evidence and argument" on an issue decided by the Department. Re: Petition of CTC Communications Corp., D.T.E. 98-18-A, at 2, 9 (1998).

II. ARGUMENT

In its September 7th Order, the Department directed Verizon MA to strike from its compliance tariff a provision (Part E, Section 1.1.2.C) which provides for a "stop clock" for physical collocation when a CLEC misses an interim milestone. The Department also directed Verizon MA to eliminate the revised tariff provision, which states that a new interval may be negotiated due to vendor delays. September 7th Order at 69. Those tariff modifications should be permitted for the following reasons.

First, in its Tariff No. 17 Order, the Department specifically stated that the "restrictions that apply to New York's 76-day provisioning interval for physical collocation should be adopted as well" and directed Verizon MA to incorporate these into its compliance tariff. Tariff No. 17 Order at 73-74. In its compliance tariff, Verizon MA did precisely as the Department directed. Verizon MA's proposed modifications in Part E, Section 1.1.2.C of the compliance tariff mirror the comparable New York tariff sections. A copy of the applicable sections of the New York tariff is attached. The New York tariff includes provisions which expressly specify that the interval clock will stop if the CLEC fails to meet its obligations. Verizon MA's compliance filing, therefore, fully complied with the Department's explicit directives in its Tariff No. 17 Order. Whether through mistake or inadvertence, the Department's ruling in the September 7th Order is inconsistent with its prior decision adopting the New York restrictions and should be reconsidered.

Second, there was no basis for the Department, in its September 7th Order, to create a distinction between applying a "stop clock" approach for virtual collocation, but not for physical collocation. In a number of circumstances involving physical collocation, CLECs choose to provide equipment that Verizon MA is required to install or terminate on, in a manner similar to virtual collocation. The record in the case is clear on this point, and there was no evidence suggesting that Verizon MA can meet a physical collocation interval if a CLEC fails to meet its obligations.

For example, CLECs may choose to provide their own POT Bay under Option 2 of physical collocation (Part E, Sec. 2.2.3.B.2), or their own point of termination

within the CLEC-provided equipment bay in their cageless (CCOE) physical collocation arrangement (Part E, Sec. 9.3.6.A.2). CLECs may also choose the Option C line sharing arrangement and provide their own splitters to be installed by Verizon MA in its physical space (Part E, Sec. 2.5.1.B.2). Under these circumstances, the CLECs control the provision of that equipment, and thus Verizon MA should not be held responsible for meeting an established interval date if the CLEC fails to meet its obligations of providing that equipment on time.

It is neither unfair nor unreasonable to hold a CLEC responsible for any delays caused by its failure to deliver equipment in a timely manner regardless of whether this involves a physical or virtual collocation arrangement. Indeed, this "stop clock" approach is consistent with the established practice in New York for determining intervals, as noted in the tariff, and also for measuring performance as part of the Carrier-to-Carrier ("C2C") Guidelines. The Department has adopted those Guidelines for measuring Verizon MA's performance.(1) The Department's ruling eliminating the "stop clock" simply cannot be squared with the evidence in this case or with the Department's decision to use the C2C Guidelines for evaluating Verizon MA's performance.

Accordingly, the Department should reconsider its September 7th Order on this issue and allow Verizon MA to mirror the New York 914 tariff and utilize a "stop clock" approach for physical as well as for virtual collocation.

III. CONCLUSION

For the foregoing reasons, Verizon MA's Motion for Reconsideration should be granted.

Respectfully submitted,

VERIZON MASSSACHUSETTS

By its attorney,

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1 See Sub-Metric N-2 Collocation Performance of C2C Guidelines. The "stop clock" approach utilized in New York has also been implemented throughout the New England region in cases where Verizon's ability to meet the collocation interval date is in jeopardy because of CLEC-caused equipment delays.